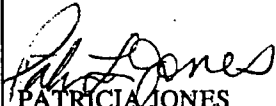


MANUAL CHANGE TRANSMITTAL
RW 0001 (REV. 10/93)

<input checked="" type="checkbox"/>	RW MANUAL CHANGE (1993 Edition)
<input type="checkbox"/>	PROCEDURAL HANDBOOK (1984 Edition)

RWMC-65
RWPH- - -
TRANSMITTAL# - -

TITLE APPRAISALS	APPROVED BY  PATRICIA JONES	DATE ISSUED February 17, 1999
SUBJECT AREA Chapter 7, Appraisals	ISSUING UNIT Appraisals	
SUMMARY OF CHANGES Revises Sections 7.13.60.01 and 7.17.19.00.		

PURPOSE
Revises Section 7.13.60.01 to change the valuation of transverse crossing from zero dollars to nominal. This change is based on the advice of the Legal Division to Right of Way.

Revises Section 7.17.19.00 to include a detailed explanation of reestablishment expenses a business owner may receive under the Relocation Assistance Program.

EFFECTIVE DATE
Effective immediately.

REVISION SUMMARY

Chapter	Remove Old Page	Insert New/Revised Page	Replace Interim Change
7 - Sections	7.13 - 3 through 7.13 - 6 (Rev. 1/98) 7.17 - 5 through 7.17- 6 (Rev. 1/98)	7.13 - 3 through 7.13 - 8 (Rev. 12/98) 7.17 - 5 through 7.17 - 8 (Rev. 12/98)	N/A

7.13.50.00 - UTILITY, RAILROAD AND GOVERNMENTAL OWNERSHIPS

7.13.50.01 Public Utility Property

Property owned in fee by public utilities (including governmental utility agencies, irrigation district/regions, and flood control district/regions) may be subject to special appraisal treatment, including the purchase of replacement land for exchange, where necessary. If the public utility and the State have entered into a master agreement at variance with instructions, the master agreement will prevail. In these cases, the title and date of the master agreement will be noted in the appraisal. Appraisers should first confer with the Utility Branch when assigned public-utility owned parcels to appraise.

7.13.50.02 Fee Land

- A. If joint use of fee-owned property is proposed, the land required for highway use will be appraised at the market value of the underlying fee. This envisions the land utilized by the utility facility has a secondary use. For example, an electric tower line traverses a property. The area under the line may still be used for agriculture, parking or residential plottage.
- B. If the State proposes to replace the land in full required by exchange, land value of the fee-owned parcel should be shown as zero (Market Value may be shown in "Remarks"). In Remarks, describe the location and parcel numbers of the replacement land, if determined.

When the State is replacing the fee-owned utility right of way with a replacement right of way that is not as wide as the existing utility property being acquired, the valuation approach will be the same as set forth in Section 7.13.60.01 for valuation of railroad operating right of way.

- C. If the public utility proposes to acquire the replacement property, the land value should be the market value of the minimum requirements of the replacement property. The basis of the valuation and description of the replacement property must be fully documented in the appraisal.

D. If the public utility proposes to abandon the use of the property without replacement, market value would be paid for the required property considering the property clear of the public utility use. Cost of abandonment and removal of improvements may be covered by utility agreement.

- E. Public utility corporation yards, shops, office and other proprietary properties will be valued by normal methods.

7.13.50.03 Improvements

Relocation of buildings, equipment, and lines involved in the utility production or transmission will normally be handled by utility agreement and need not be included in the appraisal unless the acquisition or relocation of improvements is proposed for payment under right of way contract.

7.13.60.00 Railroad Property General Prerequisites

Appraisals of railroad-owned properties which are not connected with railroad operations do not require special handling. All appraisals involving railroad-operating properties connected with rights of way, depots, station grounds, or public team tracks, etc., are to be submitted to HQ R/W for review and approval, regardless of the monetary amount involved.

Proper handling of railroad properties requires a high degree of coordination between numerous departments, including Legal, Structures, Project Development, and Right of Way. The following prerequisites apply:

- A. Upon assignment of a railroad property appraisal, the appraiser shall first confer with the District/Region Railroad Agent.
- B. Railroad appraisals are to be submitted on a construction project basis including all of the takings from the railroad ownership in a single appraisal.
- C. Due to extraordinary lead time requirements, operating right of way

appraisals must be submitted a minimum of 24 months prior to the project certification date. Single transverse crossings of railroad right of way which do not require substantial relocation of rail facilities are excepted from this requirement and may be submitted one year prior to the certification date. Any other exception to this policy must have prior approval of HQ R/W.

- D. The appraisal shall include a general description of the items which are proposed to be covered by a future construction and maintenance agreement or service contract.
- E. In all cases where more than a nominal consideration is proposed, the appraisal will include a clear statement describing the property rights held by the railroad in the property being acquired.

7.13.60.01 Valuation of Railroad Properties

Takings from railroads may involve complex legal and appraisal problems in determining fair-market value. Whenever it becomes apparent that unusual problems exist or there is a problem with defining whether the property is operating or nonoperating right of way, the District/Region should confer with the District/Region Railroad Agent, or if necessary, HQ R/W. In most cases, the following guidelines may be used:

A. Appraisals of Railroad-Owned Lands

1. Operating right of way:

- a. Where the State proposes replacement of the required land or facility, the part taken will be assigned a nominal value. A description of the replacement land will be included in "Remarks" and delineated on the Appraisal Maps.

When the State is replacing the operating right of way needed for the project with a right of way that is not as wide as the existing operating right of way, generally, only the portion replaced will be assigned a nominal value. For example, assume the existing

operating right of way is 24 meters wide and the State is proposing to convey an 18-meter-wide right of way to the railroad company as the replacement right of way. Under this circumstance, the appraisal will show 18 meters of the existing operating right of way at nominal (because it is being replaced). The remaining width, 6 meters in this example, will then be handled in one of two ways:

- 1) If the additional width of the existing right of way is required only because of uneven topography (slopes, etc.), it will also be valued at nominal.
- 2) Otherwise, the additional width will be appraised at market value.

The appraisal report will show as follows (on Form RW 3-02):

Total area taken -
 $24 \text{ m} \times 152 \text{ m} = \underline{3,648 \text{ m}^2}$

Area being replaced -
 $18 \text{ m} \times 152 \text{ m} - (2,736 \text{ m}^2) = \text{nominal}$

Area not being replaced -
 $6 \text{ m} \times 152 \text{ m} - (912 \text{ m}^2)$
 $@ \$50.00/\text{m}^2 \text{ (market value)} = \$45,600$

Est. Total Value = \$45,600

However, if the existing operating right of way is 24 meters wide because of an adverse terrain condition (cut or fill) and the replacement right of way is on level ground thus only requiring 18 meters right of way to replace the utility of the existing operating railroad facility, then the total area being acquired of 3,648 m² will be assigned a nominal value.

If the railroad company requests that the State acquire and convey

a replacement right of way which is wider than their existing right of way to be acquired by the State for the project, then the appraisal will show the extra width at market value to be paid for by the railroad company in the exchange transaction.

The appraisal report will show as follows (on Form RW 30-02):

Total area to be acquired -
 $18 \text{ m} \times 152 \text{ m} = 2,736 \text{ m}^2$

Replacement right of way -
 $24 \text{ m} \times 152 \text{ m} = \underline{3,648 \text{ m}^2}$

Right of way take -
 $18 \text{ m} \times 152 \text{ m} - (2,736 \text{ m}^2) @$
nominal

Replacement area in excess of take-
 $6 \text{ m} \times 152 \text{ m} - (912 \text{ m}^2) @ \$50.00/\text{m}^2$
(market value) \$45,600

Total amount to be paid to the State by
railroad company \$45,600

However, if the replacement railroad right of way is 24 meters wide because of adverse terrain condition (cut or fill) and the replacement right of way merely replaces the functional utility of the existing operating railroad facility, then the appraisal will show nominal value for an even exchange.

Width with utility will be the criterion. Length and area alone will not.

If the total area of the replacement right of way is different from the total area of the existing operating railroad right of way to be acquired for the project merely because of the different lengths of the two rights of way, the appraisal will be nominal value as stated in the first paragraph of this Section.

b. Where the State does not propose replacement of the required land, the longitudinal takings will be appraised at fair-market value. An example of this type of taking occurs when the State is acquiring a longitudinal strip of existing operating railroad right of way and the railroad company is able and willing to continue its operations without any replacement right of way; e.g., the existing right of way is 24 meters wide and the State needs a 6 meter strip for the project and replacement right of way is not required.

c. Where portions of the operating property may reasonably be converted to other uses by minor adjustments of facilities without affecting the railroad service, the taking will be appraised at market value, reflecting the costs of conversion.

d. Transverse crossings (and construction easements) for transportation projects, where the railroad retains operational utility of the land, will be assigned a nominal value, except as follows:

Where some portions of the railroad's operating property, such as air or subsurface space, may be reasonably usable for valuable non-transportation uses or for other transportation uses, and these uses are reasonably probable and will suffer interference by our transverse crossing, that effect is to be appraised and reflected in the valuation.

Modification of trackage will be handled by Construction and Maintenance Agreements or Service Contract.

e. Some transverse crossings may be skewed in relation to the railroad

right of way and their design also include areas of longitudinal taking. In such cases, the transverse and longitudinal areas must be segregated and valued appropriately.

- f. Longitudinal takings within existing structural transverse easement areas will be appraised at market value. The effect on land uses or values because of the existing highway-railroad grade separation structure, within the new longitudinal easement area, will not be considered in estimating the market value of the longitudinal taking. The reasoning behind this premise is that if the original transverse crossing easement was obtained at no cost to the State and provided no benefit to the railroad, the new longitudinal taking should be paid for by the State.

2. Nonoperating railroad lands:

Land considered to be in excess of the railroad's present or future operating needs will be appraised at market value. Where the property is not capable of independent use or development, the appraiser should consider any potential use of the property as plottage or joinder with the adjacent properties.

B. Appraisals of Railroad-Owned Improvements

1. Railroad improvements being acquired without replacements or relocation and lessee-owned improvements on railroad properties will be valued using normal appraisal methods, with depreciation and salvage value given full recognition. Improvement valuation shall not include trackage.
2. Improvements which are to be relocated or replaced under the terms of a construction and maintenance

agreement will be described and assigned a zero value.

3. Trackage will be handled by construction and maintenance agreement or service contract.

7.13.70.00 Governmental, Indian, Functionally Replaced Publicly Owned Facilities, and State Land

- A. Federal public lands, including national forest, will be appraised at zero land value, unless the District/Region believes land value may become an issue during acquisition. In this event, the land is to be appraised and shown at market value.
- B. Federal military reservations and federal reservoirs, canals, and flood control channels will normally be appraised at zero land value unless the District/Region believes value may become an issue during acquisition. In this event, the land is to be appraised and shown at market value.
- C. Federal General Services Administration properties will usually be appraised at market value. There may be circumstances where the property will be conveyed at zero value if the use as a highway is compatible and a benefit to the federal facility.
- D. State School Lands will be appraised at market value.
- E. Indian tribal and allotted lands will normally be conveyed as easement title only and will therefore be appraised at market value less one dollar.
- F. All other federal, state, county, special district, school district, and city lands will be appraised at market value except:
 1. If State will purchase the replacement property and functional replacement of improvements is proposed, and the owning agency has waived its right to have an estimate of compensation for the acquisition parcel established by the appraisal process in preference to functional replacement, the subject

acquisition parcel will be valued at zero value. It will be necessary that there be compliance with all provisions of 23 CFR 712.601, et seq. (see Acquisition Chapter 8 and Exhibit 8-EX-34).

The parcel numbers of the replacement land will be noted if available and the valuation basis discussed. The market value of the subject land will be included for information in "Remarks".

It will always be necessary for the Appraisal Branch to supply cost-estimate data for the acquisition property. These data are for inclusion in the submittal to FHWA seeking their concurrence in functional replacement. This will normally occur during the project-development stage of a project.

2. If acquisition of replacement property by the governmental agencies is proposed, the value of the minimum requirements of the proposed

replacement property may be used as land value of the subject. The basis of valuation and description of the replacement property will be fully documented in the appraisal. The market value of the subject land will be included for information in "Remarks".

These instructions do not preclude donation, dedication, consent to joint use, or transfer of possession and control, without consideration, from any public agency to the Department for highway purposes.

City streets and county roads closed by freeway agreement will not be valued except as to the underlying fee for adjacent properties, if separate valuation of the underlying fee is necessary. Normally, the underlying fee is valued at \$1.00 because the public has full control over the surface use and the only rights the underlying fee owner has is one of a reversion. See Section 83 of the S&H Code.

NOTES:

A. Market Approach

The most common market approach is the utilization of income multipliers derived from the market transactions of similar businesses. For example, retail store businesses might sell for two times annual gross income. Particular market multipliers may be based on income or sales and vary widely, depending on the type of business.

B. Capitalization of Excess Earnings

This is an income approach where excess earnings are calculated by subtracting from business net profit, a return on and of depreciable tangible assets and a return on marketable intangible assets. The return of a depreciable tangible asset is made over the remaining economic life of the asset. If marketable intangible assets have a limited life, then it will be necessary to also subtract a return of the asset over its remaining economic life. The excess earnings of a business, if any, are then capitalized at an appropriate rate to estimate the value of the goodwill.

C. Discounted Cash-Flow Analysis

This approach is focused on the projected earnings and expenses of a business over a period of time (usually the anticipated investment period). Value of goodwill is the present value of the projected net cash flow (either before or after taxes) for a period of years plus any reversion value of the goodwill. This method takes into account the effects of changes in the net return each year.

These are brief descriptions of the more commonly used valuation methods. For a more detailed explanation of the various valuation methods, the appraiser must refer to appraisal text books or other instructional manuals on business valuations.

7.17.16.00 Analyzing Financial Statements and State Income Tax Returns

In processing the various business valuation methods, such as the "capitalization of excess earnings", it will be necessary to analyze financial statements and State income tax returns. As part of this process, the appraiser must reconstruct the income and expenses reported to arrive at a net income applicable to the value of goodwill.

The following list includes examples of items that must be considered in reconstructing the income and expenses reported:

- Depreciation must be deleted.
- Payments (principal and interest) on loans used to purchase the business must be deleted.
- Payments (principal and interest) on loans used to purchase real property must be deleted and an economic rent for the real estate used by the business substituted for the payment;
- Use economic rent instead of contract rent in the statement. Also, economic rent must be used at the new location. This approach is based on legal interpretation of the law. The appraiser must look at the real estate Report to see what was determined to be economic rent. An explanation must be made by the goodwill appraiser if the economic rent used in the goodwill appraisal is different than the economic rent used in the real estate appraisal. There could be a difference in the economic rents if substantial time elapsed between the date of the two appraisals.
- Owner's salary and draws must be adjusted to reflect reasonable compensation for the owner's role or activity in the business operation. In some cases, corporation officers receive a salary even if they do not work in the business. These salaries may be disguised as profit sharing compensation and must be deleted because they are not an expense.

7.17.17.00 Betterment at the Relocation Property

In the process of reconstructing and/or estimating an income and expense statement for the business at a relocated property, the appraiser must adjust the statement for avoidable property betterments. The following is an example of an avoidable betterment which must be adjusted for in the income and expense statement as a part of the process of estimating goodwill value at the new business location.

Assume that the business at the old location occupied a building containing 900 m² with an economic rent of \$10,000/month. Also assume that the business owner chose to relocate to a 1,400 m² building with an economic rent of \$15,000/month, even though there were other suitable relocation properties on the market containing 900 m² at a rent of \$10,000/month comparable to the old property. In this example, the appraiser must use an economic rent of \$10,000/month in the statement instead of the actual rent of \$15,000/month at the new location.

On the other hand, an adjustment should not be made if there were no other comparable replacement properties available in the market with 900 m² renting for \$10,000/month, and the owner was forced to relocate to a 1,400 m², \$15,000/month rent in order to continue business and preserve the goodwill (patronage). This may be considered an "unavoidable betterment". In this case the appraiser must use an economic rent of \$15,000/month. However, if the business owner were forced to relocate to the larger, 1,400 m², building but could sub-let the 465 m² of excess area for \$5,000/month, then of course the appraiser must take that rental income into account at the new location.

The appraiser must be careful in deciding which betterments must be adjusted for as part of the process of estimating the value of the goodwill at the relocated property in the after condition. The basis for the appraisers decision that there is an "unavoidable betterment" must be included in the goodwill report. If the District/Region has any difficulty in identifying betterments which should be adjusted for, HQ R/W Appraisal Branch, should be consulted. There may be a need to request legal advice on specific issues.

7.17.18.00 Disadvantages at the Relocation Property

There may be certain conditions at the relocated property which cause a reduction of net income and, thus, a reduction from the level of goodwill value that the business had at the old location (loss of goodwill). A couple of examples are loss of net patronage and increased (economic) rent or other increased operating expenses. (The increased rent or other expenses of course, must not be a result of avoidable betterments.)

Note that the words "loss of net patronage" are used in this section. The reason that the word "net" is used is because Eminent Domain Law Section 1263.510, paragraph (b), states "within the meaning of this article 'goodwill' consists of the benefits that accrue to a business as a result of its location, reputation for dependability, skill, or quality, and any other circumstances resulting in probable retention of old or acquisition of new patronage." Therefore, if some of the old patronage were lost by the move, but an equal amount of new patronage is gained at the new location, there would be no net reduction of patronage.

If the District/Region has any difficulty with a particular appraisal in determining which disadvantages must be considered in estimating the compensable loss of goodwill, HQ R/W Appraisal Branch should be consulted. There may be a need to request legal advice on specific issues.

7.17.19.00 Compensation to Business Owners Under the Relocation Assistance Program (Pursuant to Section 7262 of the Government Code and 49 Code of Federal Regulation Part 24)

Certain compensable goodwill losses and Business Relocation Assistance Program items may fall into overlapping areas of the various laws. An owner is entitled to only one payment for a loss. Therefore, the appraiser must furnish the best information possible as to identifying the components of a loss of goodwill. It is then up to the Acquisition and RAP Branches to apply the information appropriately in determining proper payments. This will ensure compliance with 49 CFR 24.3 NO DUPLICATION OF PAYMENTS. The statute for compensation for loss of goodwill, Code of Civil Procedure section 1253.510, provides that there shall be no duplication

of payments for loss of goodwill which are provided to the business owner pursuant to the Relocation Assistance Program. In addition, section 1263.010 of the CCP provides "where two or more statutes provide compensation for the same loss, the person entitled to compensation may be paid only once for the loss."

The following are items for which the business owner may receive compensation under the Relocation Assistance Program. Some of these may also be included in a particular finding of a loss of goodwill. The Relocation Assistance Program covers the following:

A. Actual reasonable moving and related expenses (49 CFR Part 24.303).

B. Reestablishment expenses (limit \$10,000) (49 CFR Part 24.304). (Only "small businesses" are entitled to compensation for these reestablishment expenses. A small business is defined [49 CFR 24.2(t)] as a business having not more than 500 employees working at the site being acquired or displaced. Sites occupied solely by outdoor advertising signs, displays or devices do not qualify as a business for purposes of receiving reestablishment benefits under 49 CFR 24.304.)

1. Eligible expenses. Reestablishment expenses must be reasonable and necessary, as determined by the State. They may include, but are not limited to, the following:

- a. Repairs or improvements to the replacement real property as required by Federal, State, or local law, code, or ordinance.
- b. Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business.
- c. Construction and installation costs, for exterior signing to advertise the business.
- d. Provision of utilities from right of way to improvements on the replacement's site.

e. Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting.

f. Licenses, fees, and permits when not paid as part of moving expenses.

g. Feasibility surveys, soil testing, and marketing studies.

h. Advertisement of replacement location.

i. Professional services in connection with the purchase or lease of a replacement site.

j. Estimated increased costs of operation during the first 2 years at the replacement site for such items as:

(i) Lease or rental charges.

(ii) Personal or real property taxes

(iii) Insurance premiums, and

(iv) Impact fees or one-time assessments for anticipated heavy utility usage.

k. Other items that the State considers essential to the reestablishment of the business.

C. In Lieu Payment (not less than \$1000 nor more than \$20,000) (49 CFR Part 24.306). (This is a payment in lieu of moving and related expenses, actual reasonable reestablishment expenses, and loss of patronage.)

A business owner may be entitled to payments for eligible items listed under both Categories A and B. As an option, a business owner may elect to receive a payment under Category C, "In Lieu Payment." If the owner selects the "In Lieu Payment," the owner is not entitled to any payments under either Categories A or B. It should be noted that the portion of the in-lieu payment that is not moving and related costs must be offset against goodwill.

To enable the Acquisition and RAP Agents to comply with the law and fully compensate the business owner for proper costs and/or losses, but still ensure there is no duplication of payment, the appraiser must show the following in any goodwill appraisal which finds a compensable loss of goodwill:

The appraiser must list in the Loss of Goodwill Appraisal Report each of the items listed above which contributed to the loss of goodwill, i.e., any of the eligible reestablishment expenses and/or loss of patronage which contributed to the loss of goodwill. The amount of loss of goodwill attributed to each such item shall be shown separately, if possible.

Example:

Total estimated loss of goodwill: \$18,000.

Allocation (causes of the loss):

1. Increased economic rent	9,000
2. Necessary modification at new location	4,000
3. Loss of patronage	<u>5,000</u>
Total Loss	\$18,000

If the goodwill appraisal report concludes a loss of goodwill, the appraiser is to include a statement in the appraisal that if any amounts relating to loss of goodwill were paid to the business owner under the Relocation Assistance Program, such amounts must be deducted from the amount of the loss of goodwill shown in the appraisal report. The purpose of the statement is to serve as a reminder to the acquisition agent and to the Relocation Branch that no duplication payments for loss of goodwill are to be made as provided in the Eminent Domain Code.

See the Relocation Assistance Chapter for further information.